



City Council Chambers  
3300 Capitol Avenue  
Fremont, California

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### City Council

Bob Wasserman, Mayor  
Bob Wieckowski, Vice Mayor  
Anu Natarajan  
Bill Harrison  
Suzanne Lee Chan

### City Staff

Fred Diaz, City Manager  
Harvey E. Levine, City Attorney  
Melissa Stevenson Dile, Deputy City Manager  
  
Dawn G. Abrahamson, City Clerk  
Harriet Commons, Finance Director  
Marilyn Crane, Information Technology Svcs. Dir.  
Mary Kaye Fisher, Interim Human Resources Dir.  
Annabell Holland, Parks & Recreation Dir.  
Norm Hughes, City Engineer  
Jill Keimach, Community Dev. Director  
Bruce Martin, Fire Chief  
Jim Pierson, Transportation & Ops Director  
Jeff Schwob, Planning Director  
Suzanne Shenfil, Human Services Director  
Craig Steckler, Chief of Police  
Lori Taylor, Economic Development Director  
Elisa Tierney, Redevelopment Director

## City Council Agenda and Report [Redevelopment Agency of Fremont]

### General Order of Business

1. Preliminary
  - Call to Order
  - Salute to the Flag
  - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
  - Public Hearings
  - Appeals
  - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

### Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

### Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



## **Addressing the Council**

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

## **Oral Communications**

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

**To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.**

**The City Council Agendas may be accessed by computer at the following Worldwide Web Address: [www.fremont.gov](http://www.fremont.gov)**

## **Information**

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website ([www.Fremont.gov](http://www.Fremont.gov)).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

## **Availability of Public Records**

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk  
City of Fremont  
3300 Capitol Avenue, Bldg. A  
Fremont, California 94538  
Telephone: (510) 284-4060

*Your interest in the conduct of your City's business is appreciated.*

**NOTICE AND AGENDA OF SPECIAL MEETING  
CLOSED SESSION  
CITY OF FREMONT  
REDEVELOPMENT AGENCY**

**DATE:** Tuesday, February 23, 2010

**TIME:** 6:00 p.m.

**LOCATION:** Fremont Room, 3300 Capitol Avenue, Fremont

The Agency will convene a special meeting. It is anticipated the Agency will immediately adjourn the meeting to a closed session for granting authority to its real property negotiators, as follows:

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS:** This closed session is authorized by Government Code Section 54956.8 at the time and place stated above to confer with and grant authority regarding price and terms of payment to its real property negotiators.

<b>Property Owner</b>	<b>Address</b>	<b>Parcel No.</b>	<b>Acres</b>
Redevelopment Agency	37070 Fremont Blvd.	501-142600403	2.50
Redevelopment Agency	37120 Fremont Blvd.	501-142600601	.77
Redevelopment Agency	37156 Fremont Blvd	501-142600803	2.00
Redevelopment Agency	37196 Fremont Blvd.	501-142601002	.75
Redevelopment Agency	37122 Fremont Blvd.	501-142601100	.54
Redevelopment Agency	37218 Fremont Blvd.	501-142601203	.05

The Brown Act requires the negotiators (even when not attending the meeting) to be listed in this notice. Those negotiators are:

For the Agency—(which will be represented at the meeting) Elisa Tierney, Redevelopment Agency Director; Agency Attorney, Harvey Levine and Special Counsel, Jack Nagel.

This Special Meeting is being called by Chairman Wasserman.



**AGENDA**  
**FREMONT CITY COUNCIL REGULAR MEETING**  
**FEBRUARY 23, 2010**  
**COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A**  
**7:00 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order
- 1.2 Salute the Flag: Led by the Vallejo Mill Elementary School First Grade Class
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

**2. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.*

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances*  
*(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – None.*
- 2.3 **AUTHORIZATION TO APPROVE AND EXECUTE SUBORDINATION AGREEMENTS FOR MAIN STREET VILLAGE**

*Authorize the City Manager or Designee to Approve and Execute Subordination Agreements to Subordinate City Lien to Lender Security Instruments in Connection with the Deferral of Development Impact Fees for Main Street Village Planned for Main Street and High Street in Irvington*

*Contact Person:*

<i>Name:</i>	<i>Bill Cooper</i>	<i>Elisa Tierney</i>
<i>Title:</i>	<i>Housing Project Manager</i>	<i>Redevelopment Agency Director</i>
<i>Dept.:</i>	<i>Office of Housing &amp; Redevelopment</i>	<i>Office of Housing &amp; Redevelopment</i>
<i>Phone:</i>	<i>510-494-4520</i>	<i>510-494-4501</i>
<i>E-Mail:</i>	<i>bcooper@fremont.gov</i>	<i>etierney@fremont.gov</i>

*RECOMMENDATION: Authorize the City Manager or designee to approve and execute subordination agreements and other legal documents, prepared or approved by the City Attorney, and to take all actions necessary to subordinate the City lien to lender security instruments, as required, in connection with the deferral of development impact fees for Main Street Village.*

**2.4 GENERAL VACATION OF RAILROAD AVENUE (PLN2009-00033)**

*Public Hearing (Published Notice) to Consider an Action to Vacate Railroad Avenue Located North of the Washington Boulevard Overcrossing and East of the Former High Street/Main Street Intersection in the Irvington Planning Area*

**Contact Person:**

<i>Name:</i>	<i>Jennifer Brame</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Associate Planner</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4554</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>jbrame@fremont.gov</i>	<i>jschwob@fremont.gov</i>

**RECOMMENDATION:**

- 1. Hold public hearing.*
- 2. Find the proposed general vacation of Railroad Avenue is exempt from environmental review pursuant to CEQA Guideline 15305, Minor Alterations in Land Use Limitations, and CEQA Guideline 15282(g) statutory exemption for grade separation projects.*
- 3. Find General Vacation (PLN2009-00033), as depicted and described in Exhibit "A," is in conformance with the General Plan, for the reasons stated in the body of this report.*
- 4. Find General Vacation (PLN2009-00033), as depicted and described on Exhibit "A," fulfills the applicable criteria set forth in Streets and Highways Code Section 8324 in that the street proposed to be vacated, Railroad Avenue, is unnecessary for present or prospective public uses.*
- 5. Find General Vacation (PLN2009-00033), as depicted and described in Exhibit "A," fulfills the applicable criteria set forth in Streets and Highways Code Sections 8314 and 892 in that it would not be useful to retain as a non-motorized transportation facility.*
- 6. Adopt a Resolution including the findings referenced in recommendations 3, 4 and 5, vacating Railroad Avenue located north of the Washington Boulevard overcrossing and east of the former High Street/Main Street intersection, and reserving rights for the existing utility facilities crossing Railroad Avenue as depicted and described in Exhibit "A."*
- 7. The City Clerk shall record the Resolution for general vacation PLN2009-00033 with the Alameda County Recorder and return a copy of the recorded Resolution to the Planning Division and the Engineering Division of the Community Development Department for the PLN2009-00033 project file.*

2.5 *AMENDMENT OF SIGN REGULATIONS - PLN2010-00145*

*Public Hearing (Published Notice) To Consider a City-initiated Zoning Text Amendment to Amend Fremont Municipal Code Title VIII, Chapter 2, Article 21 Sign Regulations to Allow the Substitution of Noncommercial Copy in Lieu of any other Commercial or Noncommercial Copy, and to Prohibit New Billboards within the City of Fremont*

*Contact Person:*

<i>Name:</i>	<i>Barbara Meerjans</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Senior Planner</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4451</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>bmeerjans@fremont.gov</i>	<i>jschwob@fremont.gov</i>

*RECOMMENDATION:*

- 1. Hold public hearing.*
- 2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under Guideline 15061(b)(3), the general rule, because it is not a project which has the potential for causing a significant effect on the environment.*
- 3. Find the Zoning Text Amendment is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Fundamental Goals and Local Economy Chapter as enumerated within the staff report.*
- 4. Find the public necessity, convenience and general welfare require the adoption of this Zoning Text Amendment because the proposed amendment is in conformance with current court decisions and explicitly states the intent of the current ordinance.*
- 5. Waive full reading and introduce ordinance to adopt the Zoning Text Amendment, as set forth herein based upon findings in Exhibit "A" (Draft Ordinance).*
- 6. Direct staff to prepare and the City Clerk to publish a summary of the ordinance.*

**3. CEREMONIAL ITEMS**

- 3.1 Resolution: Honoring Building Inspector Specialist Susan Byrne for 20 Years of Service

**4. PUBLIC COMMUNICATIONS**

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None.

## CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

### 5. SCHEDULED ITEMS

### 6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

### 7. OTHER BUSINESS – None.

#### 7.1 ADOPT A RESOLUTION SUPPORTING DESIGNATION OF WARM SPRINGS BART STATION AREA AS A PRIORITY DEVELOPMENT AREA (PDA) AND AUTHORIZING SUBMITTAL OF PDA APPLICATION TO THE REGIONAL FOCUS DEVELOPMENT AND CONSERVATION PROGRAM.

Consideration of a Resolution of Local Support Authorizing Application for Priority Development Area Designations (PDA) in the Warm Springs BART Station Area in Response to a Regional Initiative (FOCUS) Spearheaded by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) in Coordination with the Bay Area Air Quality Management District (BAAQMD) and the Bay Conservation and Development Commission (BCDC) Local Identification of Development and Conservation Areas

#### Contact Person:

Name:	Kelly Diekmann	Jeff Schwob
Title:	Senior Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4540	510-494-4527
E-Mail:	kdiekmann@fremont.gov	jschwob@fremont.gov

#### RECOMMENDATION:

1. Adopt the Resolution of Local Support for the Warm Springs Priority Development Area;
2. Authorize the City Manager, or his designee, to execute the necessary documents to accept the designation and to comply with any ABAG reporting requirements;
3. Authorize the City Manager, or his designee, to submit an application to ABAG for a Warm Springs Priority Development Area.



## 7.2 GENERAL PLAN “VISION BOOK”

Presentation of a Draft General Plan “Vision Book” for Council Review and Comment

Contact Person:

Name:	Taryn Hanano	Dan Schoenholz
Title:	Planner II	Policy and Special Projects Manager
Dept.:	Community Development	Community Development
Phone:	510-494-4555	510-494-4438
E-Mail:	thanano@fremont.gov	dschoenholz@fremont.gov

RECOMMENDATION: Review and provide input to staff.

## 8. COUNCIL COMMUNICATIONS

### 8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Update to Council Assignments to Outside Commissions, Committees or Boards

### 8.2 Oral Reports on Meetings and Events

## 9. ADJOURNMENT







**\*2.3 AUTHORIZATION TO APPROVE AND EXECUTE SUBORDINATION AGREEMENTS FOR MAIN STREET VILLAGE**

**Authorize the City Manager or Designee to Approve and Execute Subordination Agreements to Subordinate City Lien to Lender Security Instruments in Connection with the Deferral of Development Impact Fees for Main Street Village Planned for Main Street and High Street in Irvington**

**Contact Person:**

Name:	Bill Cooper	Elisa Tierney
Title:	Housing Project Manager	Redevelopment Agency Director
Dept.:	Office of Housing & Redevelopment	Office of Housing & Redevelopment
Phone:	510-494-4520	510-494-4501
E-Mail:	bcooper@fremont.gov	etierney@fremont.gov

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**Executive Summary:** Fremont Main Street Village, LP has received approvals to construct a 64-unit affordable supportive housing rental development at the corner of Main Street and High Street in Irvington. The developer has applied for building permits and has requested a delay in payment of development impact fees, pursuant to the City's impact fee ordinance. To defer impact fee payment, the developer was required to execute an impact fee deferral agreement, which is recorded and creates a lien on the property. The developer's lenders are requiring that the impact fee deferral agreement lien be subordinated to their financing. Staff recommends that the City Council authorize the City Manager or designee to approve and execute subordination agreements or other documents required to subordinate the City lien to lender security instruments as discussed in this staff report.

**BACKGROUND:** Fremont Main Street Village, LP (Allied Housing and Mid-Peninsula Housing Coalition, developer) has received the required entitlements and approvals to construct a 64-unit affordable supportive housing rental development at the corner of 3615/3657 Main Street and 41037/41045 High Street in the Irvington Redevelopment Area. The City and Redevelopment Agency have approved a \$7 million affordable housing loan for the \$29 million project. The developer has applied for building permits. Also, pursuant to Fremont Municipal Code section 8-9201(b), the developer has requested a delay in payment of certain development impact fees, otherwise due before issuance of building permits. The collection of impact fees would be deferred until the date of final inspection, certificate of occupancy, or 18 months from permit issuance, whichever occurs first. Deferring payment of the impact fees will reduce the project's financing costs. As required, the developer and the City have entered into an impact fee deferral agreement (Agreement Creating a Lien on Real Property to Secure Payment of Deferred Development Impact Fees (Residential Development)) to be recorded on the property.

**DISCUSSION/ANALYSIS:** Recording the deferral agreement creates a lien in favor of the City on the property, which is intended to guarantee payment of the deferred fees. For this project, the lien is approximately \$1.5 million, the amount of deferred impact fees. The developer has informed the City that its non-local lenders, Wells Fargo Bank, California Housing Finance Agency (CalHFA) and California Tax Credit Allocation Committee, which are providing approximately \$20 million in project financing, require the City impact fee deferral lien be subordinated to their financing at construction close.

Staff recognizes that subordinating the City lien would result in it becoming subject to and of lower priority than the trust deeds of the lenders being given higher priority. Staff views this as a small risk since the project has full funding and appears to be on schedule to start construction by the end of March. Also, the lien obligation created by the fee deferral runs with the land. So, whoever develops the property will be required to pay the fees. Staff therefore recommends that the City Council authorize the City Manager or designee to approve and execute the subordination agreements required to subordinate the City lien to lender security interests as discussed in this staff report.

**FISCAL IMPACT:** N/A

**ENVIRONMENTAL REVIEW:** N/A

**ENCLOSURE:** None

**RECOMMENDATION:** Authorize the City Manager or designee to approve and execute subordination agreements and other legal documents, prepared or approved by the City Attorney, and to take all actions necessary to subordinate the City lien to lender security instruments, as required, in connection with the deferral of development impact fees for Main Street Village.

**\*2.4 GENERAL VACATION OF RAILROAD AVENUE (PLN2009-00033)**

**Public Hearing (Published Notice) to Consider an Action to Vacate Railroad Avenue Located North of the Washington Boulevard Overcrossing and East of the Former High Street/Main Street Intersection in the Irvington Planning Area**

**Contact Person:**

Name:	Jennifer Brame	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4554	510-494-4527
E-Mail:	jbrame@fremont.gov	jschwob@fremont.gov

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**Executive Summary:** The proposed general vacation would abandon Railroad Avenue, a minor/local street, to facilitate its conveyance to Union Pacific Railroad (UPRR) (see Informational 1). The proposed vacation is one of the few remaining components of the Washington Boulevard/Paseo Padre Grade Separation Project. To facilitate this project, the City entered into a property exchange agreement with UPRR. As a part of this agreement, UPRR relocated their rail corridor approximately 200 feet east (over Railroad Avenue). The City and UPRR agreed that once vacated, the street would be conveyed to UPRR and the former rail corridor area would be conveyed to the City. Staff recommends Council approve the proposed general vacation of Railroad Avenue.

**BACKGROUND:** When the Washington Boulevard grade separation project began in 2007, public access to Railroad Avenue was eliminated. From that time to September 2008, Railroad Avenue was used as a staging area for the grade separation project and then became part of the relocated UPRR rail corridor. In this location, the former rail corridor was relocated approximately 200 to the east. The land underlying Railroad Avenue is owned in fee by the City, which will be conveyed to UPRR when the vacation is completed. UPRR will, in turn, convey the former rail corridor to the City. Existing public and private utilities crossing Railroad Avenue include an undergrounded sanitary sewer line and a fuel pipeline, as well as an overhead electric power line. Appropriate crossing rights for these three utility providers will be preserved as part of the vacation action (see Exhibit "A").

This vacation proceeding was originally initiated in October 2008. However, due to complications in identifying the locations of the utilities crossing Railroad Avenue, the proceeding was delayed. Since that time, the locations of each of the utilities have been identified. By a motion adopted on January 12, 2010, City Council re-initiated this vacation proceeding.

**DISCUSSION/ANALYSIS:**

**Rational for General Vacation.** California Streets and Highways Code (SHC) Section 8324 provides that a general vacation may be ordered by the Council if it finds that the street proposed to be vacated is unnecessary for present or prospective public use. Prior to initiation of the grade separation project, Railroad Avenue was accessed by Washington Boulevard, at its southerly end, and High Street, which terminated at Railroad Avenue (see Informational 1). In 2007, public access to Railroad Avenue from both Washington Boulevard and High Street was eliminated to facilitate construction of the Washington Boulevard grade separation overcrossing. In December 2008, High Street was vacated under a separate action.

The Washington Boulevard overcrossing opened for public use in April 2009. As an overcrossing, there are no at-grade roadway connections at this location. As such, Railroad Avenue no longer connects to another public street. Prior to the grade separation project, Railroad Avenue provided access to a few parcels, all of which are currently accessible from the Main Street and High Street terminuses. As such, the proposed vacation would not create inaccessible parcels nor will it prohibit functional traffic circulation. As a result, Railroad Avenue is not necessary now or in the future for access or vehicular transportation needs.

SHC Sections 8314 and 892 require that prior to abandoning a right-of-way, the governing body must determine that the right-of-way or parts thereof are not useful as a non-motorized transportation facility. Railroad Avenue was never improved for non-motorized transportation and no sidewalks, trails, or other pedestrian facilities were provided on the street prior to closing its Washington Boulevard access in 2007. Railroad Avenue is not required for use as a non-motorized transportation facility.

**General Plan Consistency.** As set forth in SHC Section 8313, if a proposed street vacation is within an area for which a general plan is adopted, the general plan must be considered prior to taking action on the vacation. In accordance with the provisions of Government Code Section 65402, the Planning Commission reviewed the proposed general vacation and found it to be consistent with the General Plan on October 9, 2008 (see Informational 2).

Railroad Avenue is identified as a local/minor street in the General Plan. The General Plan identifies Railroad Avenue and the area to the east (adjacent to Driscoll Road) as the site of the relocated UPRR rail corridor and future BART line extension to Warm Springs (Transportation Chapter, Planned Transportation System, Figure 8-9). The Washington Boulevard grade separation, including the vacation of Railroad Avenue, also facilitates construction of the future Irvington BART station, planned for in the General Plan but currently an unfunded capital improvement project. The proposed general vacation is consistent with the General Plan.

**Disposition of Vacated Property.** Upon completion of the street vacation, Railroad Avenue, which is owned in fee by the City, will no longer be a public street. Consistent with the agreement with UPRR, Railroad Avenue will be conveyed to UPRR and the former UPRR line property will be conveyed to the City. Appropriate rights for the existing electric lines, fuel pipeline, and sanitary sewer facilities will be reserved in accordance with the City's agreement with UPRR (see Exhibit "A").

**FISCAL IMPACT:** N/A

**ENVIRONMENTAL REVIEW:** The proposed general vacation is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Guideline 15305 (Minor Alterations in Land Use Limitations), in that the site is generally flat with an average south-to-north slope of approximately two percent and the land use designation would remain Light Industrial. The Washington Boulevard/Paseo Padre Parkway Grade Separation Project, including relocation of the UPRR rail tracks to the vacated area is exempt from CEQA review pursuant to CEQA Guideline 15282(g).

**NOTIFICATION TO UTILITY COMPANIES:** All utility companies providing service in the project area have been notified about the proposed general vacation of Railroad Avenue. No objections to the vacation have been raised. As described, crossing rights will be reserved for the existing utility facilities



crossing Railroad Avenue (overhead electric lines, subterranean fuel pipeline and public sanitary sewer facilities). Reservation of these rights is a component of the agreement with UPRR.

**PUBLIC HEARING NOTICE:** Pursuant to State law, notice of this hearing on the proposed general vacation has been provided by publication of a display ad in the *Tri-City Voice* for two consecutive weeks (on February 10 and 17, 2010) and by conspicuously posting signs along the nearest publicly accessible locations to the vacation area, being the terminuses of High Street and Main Street. Because Railroad Avenue is inaccessible to the public, posting along its frontage was not possible (nor would it meet the statutory requirement for posting due to its inaccessibility to the public).

**ENCLOSURE:**

- [Draft Resolution, Plat, and Legal Description](#)
- [Information “1” – Location Map of Railroad Avenue and Adjacent Area](#)
- [Information “2” – Planning Commission Minutes, October 9, 2008](#)

**RECOMMENDATION:**

1. Hold public hearing.
2. Find the proposed general vacation of Railroad Avenue is exempt from environmental review pursuant to CEQA Guideline 15305, Minor Alterations in Land Use Limitations, and CEQA Guideline 15282(g) statutory exemption for grade separation projects.
3. Find General Vacation (PLN2009-00033), as depicted and described in Exhibit “A,” is in conformance with the General Plan, for the reasons stated in the body of this report.
4. Find General Vacation (PLN2009-00033), as depicted and described on Exhibit “A,” fulfills the applicable criteria set forth in Streets and Highways Code Section 8324 in that the street proposed to be vacated, Railroad Avenue, is unnecessary for present or prospective public uses.
5. Find General Vacation (PLN2009-00033), as depicted and described in Exhibit “A,” fulfills the applicable criteria set forth in Streets and Highways Code Sections 8314 and 892 in that it would not be useful to retain as a non-motorized transportation facility.
6. Adopt a Resolution including the findings referenced in recommendations 3, 4 and 5, vacating Railroad Avenue located north of the Washington Boulevard overcrossing and east of the former High Street/Main Street intersection, and reserving rights for the existing utility facilities crossing Railroad Avenue as depicted and described in Exhibit “A.”
7. The City Clerk shall record the Resolution for general vacation PLN2009-00033 with the Alameda County Recorder and return a copy of the recorded Resolution to the Planning Division and the Engineering Division of the Community Development Department for the PLN2009-00033 project file.

**\*2.5 AMENDMENT OF SIGN REGULATIONS - PLN2010-00145**

**Public Hearing (Published Notice) To Consider a City-initiated Zoning Text Amendment to Amend Fremont Municipal Code Title VIII, Chapter 2, Article 21 Sign Regulations to Allow the Substitution of Noncommercial Copy in Lieu of any other Commercial or Noncommercial Copy, and to Prohibit New Billboards within the City of Fremont**

**Contact Person:**

Name:	Barbara Meerjans	Jeff Schwob
Title:	Senior Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4451	510-494-4527
E-Mail:	bmeerjans@fremont.gov	jschwob@fremont.gov

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**Executive Summary:** The proposed Zoning Text Amendment to the sign regulations would allow the substitution of noncommercial copy in lieu of any other commercial or non commercial copy, and clarifies existing sign regulations by clearly prohibiting new billboards within the City of Fremont. Staff is currently preparing a comprehensive update of the sign regulations but, because of recent court cases, believes the issues addressed in the proposed amendment should be approved now.

As required by Government Code Section 65854 for the adoption of zoning text amendments, the Planning Commission held a public hearing on January 28, 2010 on the proposed amendment in accordance with Government Code Section 65855. The Planning Commission recommends that the City Council approve the proposed Zoning Text Amendment as set forth herein and based on findings provided in Exhibit "A" (Draft Ordinance).

**BACKGROUND:** Staff is preparing a comprehensive update of the sign regulations which it will bring to the Commission later this year after receiving input from the business community. Staff believes however that the changes proposed herein should be made now in light of recent lawsuits in the Bay Area aimed at exploiting perceived constitutional defects in local sign ordinances. These sign code shakedown lawsuits typically seek to have a court declare a city's sign regulations invalid so that the plaintiff may apply for entitlements to construction new billboards which are then sold for enormous profit. Moreover, because these lawsuits seek to enforce federal civil rights, the defendant city must also pay the plaintiff's attorney's fees. The propose changes respond to this threat by instituting technical legal changes to the sign regulations that staff believe will substantially lessen the likelihood of a legal challenge.

**DISCUSSION/ANALYSIS:** The proposed amendment adds two new sections to the current sign ordinance. The first section addresses message substitution. Currently, the City's Sign Ordinance only allows sign copy for a business or organization for an on-site sign. This amendment would allow the sign copy to be changed to any non-commercial message. The amendment would also allow any non-commercial message to be changed to any other non-commercial message. The amendment does not allow an increase in sign area and still requires any sign meet the appropriate building code requirements. Also, it does not allow off-site commercial messages to substitute for an on-site commercial message.

The second new section clearly addresses billboards as a distinct type of sign. The current sign ordinance prohibits off-site commercial messages and only allows sign to advertise businesses located on the same site as the sign. The current ordinance does recognize, typically through a Planned Sign Program, signs for a development such as a shopping center that might have several parcels but a unified sign that advertises businesses within that shopping center only. Billboards typically are used for the display of commercial advertising messages which pertain to products or services which are offered at a different location, also known as “off-site commercial” messages. Billboards are often a principle use of property and contribute to visual clutter and may not be compatible with adjacent land uses. Billboards may also include vehicles that are operated primarily to display general advertising. Billboard vehicles are possible traffic and safety hazards.

***General Plan Conformance:***

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

FUNDAMENTAL GOAL F-8: A diversity of residential, recreational, cultural, employment and shopping opportunities

GOAL LE 3: A hierarchy of well-defined, vital commercial areas meeting the retail shopping an, entertainment and service needs of Fremont residents.

Analysis: The proposed amendment supports the objectives of the sign regulations to direct persons to a variety of activities and enterprises. The amendment prohibits signs that are incompatible with adjacent land uses and reduces possible traffic and safety hazards.

**FISCAL IMPACT:** None

**ENVIRONMENTAL REVIEW:** The project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

**ENCLOSURE:**

- [Exhibit “A” Draft Ordinance](#)

**RECOMMENDATION:**

1. Hold public hearing.
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under Guideline 15061(b)(3), the general rule, because it is not a project which has the potential for causing a significant effect on the environment.
3. Find the Zoning Text Amendment is in conformance with the relevant provisions contained in the City’s existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan’s Fundamental Goals and Local Economy Chapter as enumerated within the staff report.

4. Find the public necessity, convenience and general welfare require the adoption of this Zoning Text Amendment because the proposed amendment is in conformance with current court decisions and explicitly states the intent of the current ordinance.
5. Waive full reading and introduce ordinance to adopt the Zoning Text Amendment, as set forth herein based upon findings in Exhibit “A” (Draft Ordinance).
6. Direct staff to prepare and the City Clerk to publish a summary of the ordinance.

## **6.1 Report Out from Closed Session of Any Final Action**

**7.1 ADOPT A RESOLUTION SUPPORTING DESIGNATION OF WARM SPRINGS BART STATION AREA AS A PRIORITY DEVELOPMENT AREA (PDA) AND AUTHORIZING SUBMITTAL OF PDA APPLICATION TO THE REGIONAL FOCUS DEVELOPMENT AND CONSERVATION PROGRAM.**

**Consideration of a Resolution of Local Support Authorizing Application for Priority Development Area Designations (PDA) in the Warm Springs BART Station Area in Response to a Regional Initiative (FOCUS) Spearheaded by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) in Coordination with the Bay Area Air Quality Management District (BAAQMD) and the Bay Conservation and Development Commission (BCDC) Local Identification of Development and Conservation Areas**

**Contact Person:**

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**Executive Summary:** The “Focus Our Vision” (FOCUS) program is an outgrowth of collaborative regional planning efforts concentrated on smart growth. Its purpose is to meld regional and local objectives in order to strengthen planning for the area. The intent of FOCUS programs is to identify locations where resources can be concentrated and create tangible outcomes of project implementation that further principles of the FOCUS program. To participate, local jurisdictions must first propose locations for designation as “Priority Development Areas” (PDA) through an application to the Association of Bay Area Governments (ABAG). If approved, these areas would be eligible for future funding from a variety of potential state and regional sources. Specific future activities for funding may range from planning assistance to infrastructure construction.

As part of the application process, ABAG requires that the City adopt a Resolution of Local Support, which includes a statement that the proposed area meets the regional criteria of proximity to existing or planned fixed transit, as well as a statement that the City supports a compact and connected development pattern. With the funded extension of BART to Warm Springs the area surrounding the station site meets the requirements of the program. In 2007 the City Council adopted similar resolutions for Centerville, Irvington, and Central Business District station areas. Staff recommends that the City Council adopt the Resolution attached to this staff report and authorize the City Manager, or his designee, to forward an application to ABAG for a PDA designation for Warm Springs station area.

**BACKGROUND:** FOCUS is the outcome of regional, local governments and communities working together to protect and improve the quality of life in the Bay Area. Generally, this vision incorporates the following goals:

- Create and strengthen compact, healthy, unique and diverse communities
- Increase housing supply, affordability and choices
- Improve transportation efficiency
- Protect resources and promote sustainability

FOCUS implementation began as a program in 2007 with an open call for Priority Development Area (PDA) applications across the Bay Area. The City of Fremont applied for and was granted status as Planned PDA for Centerville, Irvington, and the Central Business District. Warm Springs was not part of the City's applications in 2007 because of program guidelines prioritizing housing development. Subsequent application guidelines allow for consideration of potential development as part of a PDA designation.

### **DISCUSSION/ANALYSIS:**

The FOCUS program is intended to engage local governments to voluntarily implement program goals, particularly within targeted areas throughout the region that can accommodate more growth and focused development. Ideally, these areas designated PDAs would be positioned to:

- Encourage infill development and efficient use of resources
- Provide opportunities for compact communities near existing or planned transit
- Offer a mix of land uses with jobs, housing, retail and services
- Support community revitalization

Within each PDA, the primary purpose is to support the development of additional housing and employment intensive uses around transit facilities and to provide opportunities to connect the housing supply with local jobs and services.

Designated PDAs received “bonus” consideration of funding applications for project which meet FOCUS goals, and are eligible to apply for some funds which are only available to PDAs. Although the City of Fremont has not yet received any specific PDA funds, it is important to participate in the FOCUS program to maintain eligibility to secure funding incentives in the future, as well as to benefit from other program incentives, such as technical assistance grants to help local governments with planning and outreach activities. In addition, designated PDAs are incorporated into regional planning analysis and support long-term smart growth goals.

#### *Warm Springs PDA Boundary*

The proposed boundary for the Warm Springs PDA (Enclosure) takes advantage of the broad appeal of the BART Station area by incorporating all properties west of I-680 within ½ mile of the station and additional properties with frontage on an arterial road that could help support convenient transit bus corridor service. The total acreage in the proposed area exceeds 700 acres. The proposed boundary of the PDA is greater than the General Plan Warm Springs Study Area because of the expanded corridor transit linkage concept. Authorizing the PDA application for the broad area will provide greater flexibility in developing projects and programs that directly and indirectly support smart growth. A Warm Springs PDA designation creates an additional potential funding resource to consider the development potential and options in and around the BART Warm Springs station area and helps the City realize its goals of economic and sustainable development.

**FISCAL IMPACT:** The proposed PDA designation does not require the expenditure of City funds for any projects. The PDA designation does allow for future grant application requests that could provide an additional source of funding for projects within the PDA boundary.

**ENVIRONMENTAL REVIEW:** Compliance with the California Environmental Quality Act (“CEQA”): The proposed application for a PDA designation and the accompanying Resolution are not a project as defined by the California Environmental Quality Act Guideline 15378.

**ENCLOSURES:**

- [Draft Resolution & Map of the proposed Warm Springs PDA boundary](#)

**RECOMMENDATION:**

1. Adopt the Resolution of Local Support for the Warm Springs Priority Development Area;
2. Authorize the City Manager, or his designee, to execute the necessary documents to accept the designation and to comply with any ABAG reporting requirements;
3. Authorize the City Manager, or his designee, to submit an application to ABAG for a Warm Springs Priority Development Area.



## 7.2 GENERAL PLAN “VISION BOOK”

### Presentation of a Draft General Plan “Vision Book” for Council Review and Comment

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**Executive Summary:** Staff is in the process of drafting the updated General Plan. As directed by the City Council, staff is simultaneously preparing a “Vision Book” that will illustrate the General Plan vision in a user-friendly and attractive format. The purpose of this agenda item is to present the draft “Vision Book” for Council review and comment.

**BACKGROUND:** Staff presented an overview of the draft General Plan Sustainability Element to the Council in January 2010. Tonight’s presentation of the draft “Vision Book” is another mechanism for providing the Council with a broad overview of the Plan and for highlighting how it will help achieve the community’s vision. Staff anticipates holding several additional sessions with the Council over the next two to three months to present the draft land use map and to discuss the Land Use, Mobility, and Community Character Elements of the draft General Plan in more detail. Staff intends to issue a draft General Plan along with the “Vision Book” in spring 2010. At that point, the Environmental Impact Report process will begin, and staff will undertake a new round of community outreach to describe what the plan contains and to receive comments.

**DISCUSSION/ANALYSIS:** The “Vision Book” is approximately 40 pages in length and describes the General Plan vision in a series of topical sections:

- A Sustainable Community
- Becoming Strategically More Urban
- Mobility-It’s Not Just About Cars
- Enhancing Fremont’s Parks and Open Space
- An Inclusive Community
- Vibrant Town Centers
- A Diversified and Successful Local Economy
- A Well-Designed Urban Landscape
- Resource Conservation

As in the previous presentation on sustainability in the General Plan, this presentation will focus on what is new in the draft General Plan in each of these topical areas.

**FISCAL IMPACT:** Preparation and production of the “Vision Book” is part of the existing General Plan Update project budget.

**ENVIRONMENTAL REVIEW:** N/A

**ENCLOSURE:** [Draft “Vision Book”](#)

**RECOMMENDATION:** Review and provide input to staff.

## **8.1 Council Referrals**

### **8.1.1 MAYOR WASSERMAN REFERRAL: Update to Council Assignments to Outside Commissions, Committees or Boards**

#### **ENCLOSURES:**

- [Draft Resolution](#)
- [Mayor and City Councilmember Assignments \(2009-2011\)](#)

**RECOMMENDATION:** Adopt a resolution designating Council assignments to outside committees, commissions, and boards. This resolution modifies and replaces the resolution adopted by the Council on February 10, 2009 (Resolution No. 2009-8).

## **8.2 Oral Reports on Meetings and Events**



## ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD .....	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS .....	Geographic Information System
ACE .....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD .....	Alameda County Flood Control District	HARB .....	Historical Architectural Review Board
ACTA .....	Alameda County Transportation Authority	HBA .....	Home Builders Association
ACTIA .....	Alameda County Transportation Improvement Authority	HRC .....	Human Relations Commission
ACWD .....	Alameda County Water District	ICMA .....	International City/County Management Association
BAAQMD .....	Bay Area Air Quality Management District	JPA .....	Joint Powers Authority
BART .....	Bay Area Rapid Transit District	LLMD .....	Lighting and Landscaping Maintenance District
BCDC .....	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs .....	Best Management Practices	LOS .....	Level of Service
BMR .....	Below Market Rate	MOU .....	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD .....	Central Business District	NEPA .....	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's .....	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG .....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA .....	California Environmental Quality Act	PC.....	Planning Commission
CERT .....	Community Emergency Response Team	PD .....	Planned District
CIP .....	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA .....	Congestion Management Agency	PVAW .....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF .....	City of Fremont	RDA .....	Redevelopment Agency
COPPS .....	Community Oriented Policing and Public Safety	RFP .....	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC .....	California Transportation Commission	RHNA .....	Regional Housing Needs Allocation
dB .....	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO .....	Development Organization	RWQCB .....	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET .....	Southern Alameda County Narcotics Enforcement Task Force
EBRPD .....	East Bay Regional Park District	SPAA .....	Site Plan and Architectural Approval
EDAC .....	Economic Development Advisory Commission (City)	STIP .....	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS .....	Environmental Impact Statement (NEPA)	T&O .....	Transportation and Operations Department
ERAF .....	Education Revenue Augmentation Fund	TOD .....	Transit Oriented Development
EVAW .....	Emergency Vehicle Accessway	TS/MRF .....	Transfer Station/Materials Recovery Facility
FAR .....	Floor Area Ratio	UBC .....	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa .....	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA .....	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27  
BROADCAST SCHEDULE**

<b><i>Date</i></b>	<b><i>Time</i></b>	<b><i>Meeting Type</i></b>	<b><i>Location</i></b>	<b><i>Cable Channel 27</i></b>
March 2, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 9, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 16, 2010	TBD	Work Session	Council Chambers	Live
March 23, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 30, 2010 (5 <sup>th</sup> Tuesday)		No City Council Meeting		
April 6, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 13, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 20, 2010	TBD	Work Session	Council Chambers	Live
April 27, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 3, 2010	4:00 p.m.	Joint City Council/FUSD Board Meeting	Council Chambers	Live
May 4, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 11, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 18, 2010	TBD	Work Session	Council Chambers	Live
May 25, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 1, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 8, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 15, 2010	TBD	Work Session	Council Chambers	Live
June 22, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live